

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	Joar Opheim	Confirmation No.:	1343
Serial No.:	10/646,898	Art Unit:	1611
Filed:	August 22, 2003	Examiner:	Isis A.D. Ghali
	FLAVORED GELATIN CAPSULE AND METHOD OF MANUFACTURE	Attorney Docket No.:	03-109/282019- 999012

PETITION TO REVIVE

UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 C.F.R. § 1.137(b)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Abandonment of the above-identified application mailed December 22, 2008, Applicants respectfully petition the United States Patent and Trademark Office ("USPTO") to revive the instant application under 37 C.F.R. § 1.137(b) on the ground that the application was unintentionally abandoned. A copy of the Notice of Abandonment is attached with this petition as Exhibit A.

Applicant hereby states that the entire delay to the date this petition is filed was unintentional.

Also being submitted herewith are (1) a Request for Continued Examination (RCE) Transmittal, (2) an Amendment and Response to the May 19, 2008 Office Action, and (3) a Declaration of Joar Opheim Under 37 C.F.R. § 1.132.

The Request for Continued Examination and Amendment together constitute a full and complete Response to the Office Action mailed May 19, 2008, as required by 37 C.F.R. § 1.137(b).

Accordingly, Applicants hereby respectfully request that the application be revived, and that the Request for Continued Examination submitted herewith be accepted and made of record into the file of the present application.

CONCLUSION

Applicants hereby respectfully request that the Patent Office revive the above-identified patent application. Please charge the required petition fee of \$810.00 to Jones Day's Deposit Account No. 50-3013 (Referencing No. 282019-999012).

Respectfully submitted,

Date: January 16, 2009



James W. Peterson 26,057
JONES DAY (Reg. No.)
222 East 41st Street
New York, New York 10017
(212) 326-3939

EXHIBIT A



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,898	08/22/2003	Joar Opheim	03-109	1343
23843 7590 12/22/2008 FOOTHILL LAW GROUP 777 N. FIRST STREET, SUITE 325 SAN JOSE, CA 95112			EXAMINER GHALI, ISIS A D	
			ART UNIT 1611	PAPER NUMBER
			MAIL DATE 12/22/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Interview Summary	Application No.	Applicant(s)	
	10/646,898	OPHEIM, JOAR	
	Examiner	Art Unit	
	Isis A. Ghali	1611	

All participants (applicant, applicant's representative, PTO personnel):

(1) Isis A. Ghali. (3) ____.

(2) Mr. Howard Lebowitz. (4) ____.

Date of Interview: 16 December 2008.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.
If Yes, brief description: ____.

Claim(s) discussed: ____.

Identification of prior art discussed: ____.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Several attempts to reach Mr. Lebowitz were unsuccessful.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Notice of Abandonment

Application No.

10/646,898

Applicant(s)

OPHEIM, JOAR

Examiner

Isis A. Ghali

Art Unit

1611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 19 May 2008.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

Interview summary is attached.

/Isis A Ghali/
Primary Examiner, Art Unit 1611

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.